



COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

SEPTEMBER 24, 2002

PRESENT: Acevedo, Benich, , Escobar, Lyle, Mueller, Weston

ABSENT: None

LATE: Engles

STAFF: Planning Manager (PM) Rowe, Assistant Planner (AP) Plambaeck, Senior Engineer (SE) Creer, Business Assistance and Housing Manager (BAHM) Maskell and Office Assistant II Dieter

Chair Acevedo called the meeting to order at 7:03 p.m.

DECLARATION OF POSTING OF AGENDA

Office Assistant II Dieter certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Acevedo opened the public hearing.

With no one present wishing to address matters not appearing on the agenda, the public hearing was closed.

MINUTES:

**SEPTEMBER
10, 2002**

**COMMISSIONERS ESCOBAR/WESTON MOTIONED TO APPROVE THE
SEPTEMBER 10, 2002 MINUTES, WITH THE FOLLOWING AMENDMENTS:**

-Page 7, item 3, paragraph 7. Correct the motion and the conditions to include the fencing in the PUC . Require the fencing if the City of Morgan Hill adopts a safety plan for the railroad tracks. Also a condition requiring the applicant to acknowledge that there may be some limitations on who may lease space based on the conditional uses.

-Page 2, item 1, visible netting is not acceptable

-Item # 1, page 17 of the Standard Conditions; #2 Equipment should not be visible from the overpasses's, #6, condition should include a linear distance, as well as depth; #9 & 10, number of trees, size or type; #17, not specific. Need to pin down the square footage; # 22,

questions the water channel, as would not want balls going into the water channel or people going into the channel to recover balls.

-Item 1, questions on the building square footage.

-Page 4, item 2, paragraph 2, add date of “ To be obtained” and correct construction commencement date to read 6-30-04.

-Page 7, paragraph 7, add disclosure of chemicals and other toxins in neighboring businesses. -Page 6, paragraph 4 should read ...Safe Drinking Water and Toxic Enforcement Act.

THE MOTION PASSED BY A VOTE OF 6-0-0-1 AS FOLLOWS: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER, WESTON; NOES: NONE; ABSTAIN: NONE; ABSENT: ENGLES.

OLD BUSINESS:

1) UP-01-01: A request for approval of a conditional use permit to allow for the construction of a 6,500 square foot building, arcade, restaurant and miniature golf course on 1.6 acres. The location is the west side of Condit Rd., approximately 800 ft. S. of the E. Dunne Ave./
CONDIT- Condit Rd. intersection. The zoning for the site is Planned Unit Development (PUD).
PATEL

AP Plambaeck presented the staff report. He stated that at the August 13, 2002 Planning Commission meeting the applicant was asked to bring back information to clarify the statement of operation, and a study of shared parking with the adjoining Carl's Jr's. AP Plambaeck advised that the applicant provided all of the requested information, and that at this time, staff is recommending adoption of a Mitigated Negative Declaration and the approval of the Conditional Use Permit by the adopting Resolution No. 02-66.

Chair Acevedo opened the public hearing.

The first speaker was Vince Burgos, of DPC, 352 Eagle Nest, Danville, stated that they did try to coordinate the parking with the Carl's Jr's, but instead decided to provide all of the required parking on site.

Commissioner Benich asked about the closing times stated in the staff report.

Mr. Patel, applicant responded that in the winter months they would like the earlier closing time. Mr Patel added that if the demand is there, then they would stay open later and that the size of the building was 6500 square feet.

Commissioner Mueller questioned the use of netting along the freeway.

Mr. Burgos stated that they would prefer not to have netting if the Commission would allow.

Chair Acevedo close the public hearing

Commissioner Weston stated that the trees should be faced away from the freeway and that he did not want netting. PM Rowe noted that as this is a Conditional Use Permit and that the Commission could bring the Use Permit back for amendment if needed and require the netting.

Commissioner Mueller stated that screening should be sufficient to keep the golf balls out of the (Madrone Channel) waterway. He noted that there are no vertical towers and feels that it should stay that way, and that this should be a condition of the Use Permit. He added that the on Standard Condition, page 17, #2, is a conditions that have been used in other places along Condit. He felt that the screening of the equipment on the roof should be made a Condition of Approval. Commissioner Mueller also felt that a linear footage for the encroachment into the perimeter landscape area should be noted so that the Commission will know how many feet the landscape area will be reduced along Highway 101.

Discussion continued regarding the vertical water falls. It was stated that any vertical structures needed to be within the principle setbacks and not encroach into the 30 foot setback, and the precise distance should be decided by the Site and Architectural Review Board.

Commissioner Lyle wanted the language added to Standard Condition # 3, page 17, " by a minimum of three feet in height."

Commissioner Benich /Escobar spoke about the hours of operation. Consensus was that the hours of operation should be from 6 AM to 11 P.M.

Chair Acevedo mentioned that in regard to the restaurant, the Planning Commission needs to safeguard against a fast-food establishment.

COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO APPROVE THE NEGATIVE DECLARATION. THE MOTION PASSED UNANIMOUSLY.

COMMISSIONERS MUELLER/LYLE MOTIONED TO APPROVE RESOLUTION NO. 02-66 WITH THE FOLLOWING CONDITIONS:

- point B in section 3 to reference Standard Conditions on page 17 , #25, which states the hours of operation maybe 6 AM to 11 P M.;
- Standard Condition # 2, page 17, that the roof- mounted equipment not be visible from the freeway overpasses or at ground level;
- Standard Condition # 3, page 17; should read," by a minimum of three feet in height."
- Standard Condition#22 should prevent arrant balls from being hit towards vehicles on the 101 freeway and ramps and the water channel adjacent to the freeway.
- New Standard Condition #26 no vertical element to the holes of golf course that are inside the 30 foot landscape easement along the Highway 101 freeway and the easement along Condit Road
- Ask that the Site and Architecture to add a linear footage limit to Standard Condition # 6

THE MOTION PASSED UNANIMOUSLY.

Commissioner Benich stepped down from the dias due to a possible conflict of interest.

NEW BUSINESS:

**2) GPA-02-02/
ZA-02-06:
WATSONVILLE-
CITY OF M.H.
RDA** A request to change the General Plan Land Use designation from Public Facilities to Multi-Family Low, and change the zoning designation from Public Facilities to R2/3,500 to maintain consistency with the proposed General Plan Land Use designation for the property. The property is a 1.5 acre site located on the north side of Watsonville Rd., approximately 800 ft. west of the Monterey Rd./Watsonville Rd. intersection.

The staff report was resented by AP Plambaeck, concluding with staff recommendations for approval of the requests.

Commissioner Engles asked staff if there was anything that restricts the RDA from going through the entitlement process and getting a higher value for the property as they could conceivably have 10 lots available for a developer to buy or sell off and make a profit.

Commissioner Mueller said that the need is there for the low cost housing for police and teachers, as we have a problem recruiting in this expensive housing market.

BAHM Maskel from stated that the RDA has begun working with South County Housing. South County has invited the RDA and the homeowners in Rio Sereno to attend a meeting on October 9th. The meeting will be to discuss the project that would be built and pricing for incoming teachers, police officers and other public employees. BAHM. Maskel stated that the medium income in this area is at least \$90,000, so the perception of what low income is very different than it may be in other communities. She added that next week South County Housing will be going over preliminary site planning, and then they would be sharing that information with the homeowners at a town hall meeting.

Commissioner Engles felt that a proforma should be developed to show what this property would be worth on the open market.

Chair Acevedo opened the public hearing.

Michel Donnelly, 15355 Calle Sueno, stated that he would like to see houses built that are similar square footage and style as the Rio Sereno project.

Dan Kenney, 241 Via Naretto, stated that he would like the project to be limited to six units and to copy the architecture from his development. He suggested a particular model that was built in Rio Sereno that has 3 attached units. He felt it would provide the 6 units and use up the least amount of land. He stated that he was in favor of the project.

Natalie Nelson, 261 Via Naretto, expressed concern with how they would track the houses on resale and maintain the same kind of buyer.

Andy Growiostra, 251 Via Naretto, Moganty Kumari, 255 Via Naretto, and Prviz Shahab, 225 Via Naretto, each spoke against the project.

Stacy Thornburg, 275 Via Naretto, stated that she would like to see some guarantee that the development will be for public employees of the community.

Chair Acevedo closed the public hearing. Chair Acevedo reminded the audience that at this time the Planning Commission is not really looking at any specific project, but that the present item is a zoning change request.

Commissioner Engles stated he would like to see the initiation the following conditions: Comparative financial analysis of what the tax payers would receive in a ready-to-build condition and its value. He added that if the Commission to go forward on the project as an affordable project, he would like to see the City of Morgan Hill try to find another developer other than South County Housing.

PM Rowe advised that Commissioner Engles' recommendations should be part of the motion that will be forwarded to the City Council.

Commissioner Escobar stated that he was not in agreement with Commissioner Engles.

Commissioner Lyle stated that he feels that there is some confusion about what affordable means. Affordable housing in definition is housing up to \$480, 000, which is not the same as how we define a BMR range. These issues are yet to be determined. He feels that the site could support more than 6 units, and that the density should be the same as the Rio Sereno site.

Discussion ensued about resale of units. PM Rowe mentioned that there could be a deed restriction to protect against the property being resold to other than a teacher or other public employees.

COMMISSIONERS MUELLER/ESCOBAR MADE THE MOTION TO APPROVE THE MITIGATE NEGATIVE DECLARATION. THE MOTION PASSED UNANIMOUSLY BY THE COMMISSIONERS PRESENT, WITH COMMISSIONER BENICH ABSENT.

COMMISSIONERS MUELLER/ESCOBAR MADE THE MOTION TO APPROVE RESOLUTION NO. 02-71. THE MOTION PASSED UNANIMOUSLY BY THE COMMISSIONERS PRESENT, WITH COMMISSIONER BENICH ABSENT.

COMMISSIONERS MUELLER/ESCOBAR MADE THE MOTION TO APPROVE RESOLUTION NO. 02-72. THE MOTION PASSED UNANIMOUSLY BY THE COMMISSIONERS PRESENT, WITH COMMISSIONER BENICH ABSENT.

Commissioner Benich returned to his seat at the dias.

**3) ZA-02-13:
CITY OF M.H.-
ESTABLISH-
MENT OF
CHAPTER
REGARDING
DEVELOPMENT
AGREEMENTS**

Amendment to Title 18 of the Morgan Hill Municipal Code, Zoning Ordinance, the creating Chapter 18.80 and establishing provisions for Development Agreements.

PM Rowe presented the staff report. He noted the modifications on section 18.80.10, page 2 of Exhibit A of the draft ordinance, recommend dropping the word, "only"; section to 18.80.30 , page 4, 2B, change the wording to read "either/or" under B. Format changes will be done by the City Attorney; section in Content under B. Format changes will be done by the City Attorney; section Development Agreements, should be modified

to show it to be a non-binding negotiation and Section 18.80.090A, under miscellaneous

provisions the City Attorney felt that the statement should stay as written. PM Rowe then requested approval of the Negative Declaration and the adoption of Resolution No. 02-73.

Commissioner Mueller stated that it is very important that we don't lose the Development Agreement under Measure P. In addition, he felt that the Commission should get clear direction from the City Attorney before this is sent to the City Council.

Chair Acevedo opened the public hearing.

With no one present wishing to speak, the public hearing was closed.

COMMISSIONERS MUELLER /BENICH MOTIONED THAT THE PUBLIC HEARING NOT BE CLOSED AND REQUESTED THAT THE ITEM BE BROUGHT BACK TO THE PLANNING COMMISSION AT THE OCTOBER 8TH MEETING, WITH CLARIFICATION OF THE EDITS FROM PM ROWE INSERTED, AND COMMENTS FROM CITY ATTORNEY LEICHTER. COMMISSION MUELLER IS CONCERNED THAT #2B, #2 AS WORDED WOULD EXCLUDE DEVELOPMENT AGREEMENTS FROM ANY MEASURE P PHASE THAT WE HAVE NOW. THE MOTION PASSED UNANIMOUSLY.

4) ZA-02-05: Discuss and give direction regarding the potential phasing of development within the PUD
TENNANT- zoning district located within the southwest quadrant of the Tennant Ave./Highway 101
TENNANT AVE. interchange.
PUD

The staff report was given by PM Rowe. He asked that policy direction be given by the Planning Commission in establishing this PUD.

Discussion with staff was conducted regarding what makes this site different from the Cochrane Plaza site or any other Gateway area. Staff stated that the same standards would be held to this site.

Chair Acevedo opened the public hearing.

John Telfer of Morgan Hill, stated that he represents 4 property owners. He stated that there are 5 separate property owners on the 5 parcels. He continued by stating that one of the owners, Mr Goyal bought this property only to build a gas station. Mr Goyal received information from the City of Morgan Hill that a gas station on that site would be a permitted use. With that information, he then purchased the property and closed escrow. That was 5 years ago. Mr Telfer stated that a short time after the PUD process came into being, Mr. Goyal recognized that they have to work with all of the property owners to develop the master plan for the PUD. Mr Telfer stated that, as yet, he does not have an anchor business for the site and he knows that most of this is conjecture. He stated that as of right now, Mr. Goyal would like to go ahead with the car wash, gas station, and a fast-food restaurant, and that Dr. Beterman would like to build a medical office building in the first phase of building. At this time, he and the property owners are looking for direction from the Planning Commission.

Chair Acevedo closed the public hearing.

Commissioner Weston stated that he is in agreement on a gas station, but is opposed to another fast food restaurant. He would also like to see more landscape along Butterfield

Boulevard.

Commissioner Lyle commented on the phasing of the project. He would like to see more than just the medical center built before the gas station and fast-food restaurant.

Commissioner Mueller stated that the PUD requirement goes back to the 1990 General Plan. It stated that all corners of freeway interchanges required a PUD. Commissioner Mueller is in agreement with Commissioner Lyle. He stated that precedent has been set in respect to requirements of a certain amount of square footage being built before the fast-food restaurant or gas station could be occupied in a PUD. Mr. Mueller cited the Gateway project, and the new Safeway project as examples. Commissioner Mueller feels that the first step should be to do the precise development plan for the PUD.

Commissioner Escobar is concerned about what would come in the future and what the larger usage would be. He feels that the Commission needs to know what the larger uses are going to be, and does not want to piece meal the approval process.

Commissioner Benich finds it strange that the applicant would want to build a medical building, when just down Juan Hernandez there is a vacant medical building.

Chair Acevedo would rather see a fast-food restaurant at the highway, rather than in the interior of the town. He would be in favor of the uses that have been proposed. Chair Acevedo took a straw vote as follows. Noes to proposed sequencing of development, the gas station/ mini market, the fast-food restaurant and the 10,000 square foot Beterman Building would that be an acceptable first phase were: Commissioners Lyle, Benich, Escobar, Mueller & Weston; Ayes: Acevedo & Engles.

Mr. Telfer asked what would happen if the City set the guidelines for a PUD and then several of the owners would never want to develop their property? That would leave the other property owner not being able to do anything with his property.

ANNOUNCEMENTS:

PM Rowe spoke about the Council's leadership forum should make your comments known if you haven't already done so.

PM Rowe also mentioned that the Silicon Valley Manufacturing Group Project 2002 forum was held and Commissioners Engles and Lyle attended.

Regarding recent City Council actions, PM Rowe reported that on September 18, 2002, the council adopted the Resolution to annex the Borello I property into the City limits.

ADJOURNMENT: There being no further business, Chair Acevedo adjourned the meeting at 9:31 p.m.

MINUTES RECORDED AND PREPARED BY:

PLANNING COMMISSION MINUTES
SEPTEMBER 24, 2002
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